



SF 2297 – Sexual Abuse, Fourth Degree (LSB 5826SV)

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Fiscal Note Version – New

Requested by Senator Gene Fraise

Description

Senate File 2297 creates the criminal offense of sex abuse in the fourth degree, penalized as an aggravated misdemeanor. Sexual abuse in the fourth degree is defined as 19- or 20-year-old people that perform a sex act with another person who is 14 or 15 years old. The Bill also provides retroactive and applicability provisions regarding special sentences for certain sex offenders and requirements of the Sex Offender Registry.

Background

Correctional and Fiscal Information

- Current law provides for a graduated system of penalties for sexual abuse in the first, second, or third degree, including a Class “A,” “B,” or “C” felony. Offenders convicted of a Class “A” felony are sentenced to life in prison without parole. Offenders convicted of a Class “B” sex offense are subject to serving at least 70.0% (17.5 years) of the sentence in prison.
- Sex offenders convicted of a Class “C” felony or greater are subject to a special sentence of lifetime supervision once their original sentence is discharged. They are also subject to the requirements of the Sex Offender Registry as long as they remain on the special sentence. Offenders serving a special sentence are under the supervision of Community-Based Corrections (CBC) supervision as if they were on parole. The Sex Offender Registry is administered by the Department of Public Safety (DPS).
- Certain offenders currently convicted of sexual abuse in the third degree would be sentenced to sexual abuse in the fourth degree under the Bill. They would be convicted of an aggravated misdemeanor (2-year sentence) rather than a Class “C” felony (10-year sentence). Offenders convicted of sexual abuse in the fourth degree would not be subject to a special sentence, nor would their information be publicly displayed on the Sex Offender Registry. However, they would remain on the Sex Offender registry for 10 years.
- According to the Justice Data Warehouse, Iowa averages approximately 35 prison admissions per year for sexual abuse in the third degree. Fifteen of the 94 prison admissions (16.0%) over the last three years meet the definition in the Bill of being age 20 or less and the victim was 14 or 15 years old.
- According to the Justice Data Warehouse, the State Public Defender’s Office, and the Judicial Branch, the following are estimates for sentencing, length of stay, indigent cost and case cost for those convicted of Class A, B, C, D, or aggravated misdemeanors for crimes against persons or sex offenses convictions:

Type of Felon	Percent Sentenced to Prison	Avg Length of Stay in Prison	Percent Sentenced to Probation	Avg Length of Stay on Probation	Avg Length of Stay on Parole	Special Sentence of Supervision	Cost of Indigent Defense	Avg cost per case for Judicial Branch
Class "C"	61.1% (1)	64.0 months	36.7%	33.8 months	24.6 months	Yes - Lifetime after discharge of sentence	\$1,800	\$417
Aggravated Misdemeanor	31.4 (2)%	13.5 months	58.6%	18.1 months	5.3 months	Yes - 10 Years after parole/probation	\$1,200	\$205
(1) Another 2.2% are sentenced to county jail, a fine, community service or some combination thereof.								

- Sex offenders supervised by CBC are generally first placed on intensive supervision and may be required to wear an electronic monitoring device. The average cost per day for intensive supervision and electronic monitoring is:

Offender Type	Avg Length of Stay Intensive Superv	Intensive Superv Cost/Day	Elec Monitoring Bracelet Cost/Day	Avg Length of Stay on Elec. Monitoring	Prison Marginal Cost/Day
Sex Offenders	460 day	\$7.78/parole or \$3.49 probation	\$5.50/day	352 days	\$15.59

- [Senate File 2297](#) requires the Department of Corrections (DOC) and the DPS to review offenders currently on correctional supervision solely for sexual abuse in the third degree where the offender was 19 or 20 years old and the victim was 14 or 15 years old. The DOC is required to notify the Board of Parole that those offenders are not subject to a special sentence.
- The Bill requires the DPS to remove relevant information from the Sex Offender Registry Internet site for offenders identified as no longer being subject to the special sentence. There are currently no more than 164 offenders on the Sex Offender Registry who may fall under the provisions of this Bill.
- The Department of Human Rights, Criminal and Juvenile Justice Planning Division, released its [FY 2011 – FY 2021 Prison Population Forecast](#) in November 2011. According to that report, Iowa's prison population is forecasted to reach 11,330 offenders by June 30, 2021. That is an increase of 2,395 offenders (26.8%) compared to June 30, 2011.

Minority Data Information

The majority (80.08%) of convicted sex offenders are white.

Assumptions

Correctional and Fiscal Information

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, and other criminal justice policies and practices will not change over the projection period.

- All offenders will be placed on intensive supervision and electronic monitoring when they first enter probation or parole supervision. Their supervision level will be reduced if they are successful on intensive supervision.
- Half of the offenders will be indigent. All offenders will receive bench trials.
- There will be an increase in county jail sentences for misdemeanor convictions.
- Any correctional or fiscal impact for violations of the Sex Offender Registry is expected to be minimal under this Bill.
- The fiscal impact on the DOC and the DPS is expected to be minimal for implementing the retroactive sections of this Bill.
- This analysis includes the retroactive and future impacts of this Bill.

Minority Data Information

- The impact on minorities will remain consistent with current data.
- Approximately 14.0% of Iowa's population has at least one disability. The number of disabled offenders impacted by this Bill may be 14.0%.

Summary of Impacts

Correctional Impact

There will be an estimated eight offenders convicted annually under this Bill. These offenders are convicted of a Class "C" felony under current law and sentenced as follows: three to prison and five to probation. One of the five sentenced to probation will be sentenced to a CBC residential facility as well. As aggravated misdemeanants, three will be sentenced to prison, and five to probation. Of the five sentenced to probation, one will be sentenced to a CBC residential facility, and one will be sentenced to a county jail. The offenders convicted under this Bill will remain under correctional supervision for a shorter length of stay than current law. The table below shows the impact on the correctional system by prison and CBC supervision, including the retroactive impact.

Correctional Impact

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Prison Population	0	-7	-20	-31	-42
CBC Population	0	3	11	19	27
Net Impact	0	-4	-9	-12	-15

The projected reduction in the correctional population under this Bill is not significant, given the forecasted increase of 26.8% by FY 2021.

Minority Impact

The minority impact is not expected to be significant because most of the offenders are white.

Fiscal Impact

The fiscal impact is minimal as shown in the table below.

State General Fund Impact

	FY 2013	FY 2014
	FY 2013	FY 2014
Court System	\$ -900	\$ -1,700
Indigent Defense	-1,200	-2,400
Prison	0	-40,000
CBC	0	6,100
Total	<u>\$ -2,100</u>	<u>\$ -38,000</u>

The impact on county budgets for jail operations is expected to be minimal.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Office of the State Public Defender
Judicial Branch
Department of Public Safety

/s/ Holly M. Lyons

March 6, 2012

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to Iowa Code [Section 2.56](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.
